

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

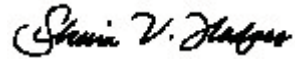
Albert W. Hart, a/k/a Albert Williams)	C/A No.: 1:08-3981-JFA-SVH
Hoyte, a/k/a Albert William Hoyte,)	
)	
Plaintiff,)	
)	
vs.)	REPORT AND RECOMMENDATION
)	
Sheriff James Lee Foster, Major D.)	
Gilliam, Captain Shane Kitchen, Sheriff)	
Ricky W. Chastain, Major Chris Hudson,)	
and Captain Paul Mode,)	
)	
Defendants.)	
_____)	

The court was informed of Plaintiff's death by letter of his sister dated September 7, 2010. [Entry #100]. Pursuant to Fed. R. Civ. P. 25, the court issued an order, mailed to decedent's last known address and to Plaintiff's sister, advising that the successor, personal representative of Plaintiff's estate, or other appropriate party should file a motion for substitution with the court by December 10, 2010 if he or she wished to proceed on the decedent's behalf. The court further advised that the failure of an appropriate party to file a motion for substitution by December 10, 2010 may result in dismissal of this case.

No party having filed such a motion for substitution, the undersigned hereby recommends this case be dismissed without prejudice. *See* Fed. R. Civ. P. 25(a)(1) ("If the motion [for substitution] is not made within 90 days after service of a statement noting the death, the action by or against decedent must be dismissed.") If the district

judge accepts this recommendation, Defendants' Motion to Revive their previous summary judgment motion [Entry #110] will be rendered moot.

IT IS SO RECOMMENDED.

A handwritten signature in black ink, reading "Shiva V. Hodges". The signature is written in a cursive, flowing style.

December 13, 2010
Florence, South Carolina

Shiva V. Hodges
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**